



**INTERNATIONAL TRADE COMMISSION**

**INVESTIGATION NO. 337-TA-769**

**CERTAIN HANDHELD ELECTRONIC COMPUTING DEVICES, RELATED SOFTWARE, AND COMPONENTS THEREOF**

**TERMINATION OF THE INVESTIGATION BASED ON SETTLEMENT AND PARTIAL WITHDRAWAL OF THE COMPLAINT**

**AGENCY:** U.S. International Trade Commission.

**ACTION:** Notice.

**SUMMARY:** Notice is hereby given that the U.S. International Trade Commission has determined not to review initial determinations (“IDs”) (Order Nos. 40 and 41) of the presiding administrative law judge (“ALJ”) terminating the above-captioned investigation as to one remaining respondent Inventec Corporation (“Inventec”) of Taipei County, Taiwan based on partial withdrawal of the complaint, and as to the other remaining respondents Barnes & Noble, Inc. and barnesandnoble.com, LLC (collectively, “Barnes & Noble”), both of New York, New York, based on a settlement agreement.

**FOR FURTHER INFORMATION CONTACT:** Clint Gerdine, Esq., Office of the General Counsel, U.S. International Trade Commission, 500 E Street, S.W., Washington, D.C. 20436, telephone (202) 708-2310. Copies of non-confidential documents filed in connection with this investigation are or will be available for inspection during official business hours (8:45 a.m. to 5:15 p.m.) in the Office of the Secretary, U.S. International Trade Commission, 500 E Street, S.W., Washington, D.C. 20436, telephone (202) 205-2000. General information concerning the Commission may also be obtained by accessing its Internet server at <http://www.usitc.gov>. The public record for this investigation may be viewed on the Commission's electronic docket (EDIS)

at <http://edis.usitc.gov>. Hearing-impaired persons are advised that information on this matter can be obtained by contacting the Commission's TDD terminal on (202) 205-1810.

**SUPPLEMENTARY INFORMATION:** The Commission instituted this investigation on April 25, 2011, based on a complaint filed by Microsoft Corporation ("Microsoft") of Redmond, Washington. 76 *Fed. Reg.* 22918. The complaint, as amended, alleged a violation of section 337 of the Tariff Act of 1930, as amended, 19 U.S.C. § 1337, in the importation into the United States, the sale for importation, and the sale within the United States after importation of certain handheld electronic computing devices, related software, and components thereof by reason of infringement of certain claims of U.S. Patent Nos. 5,778,372 ("the '372 patent"); 5,889,522 ("the '522 patent"); 6,339,780 ("the '780 patent"); 6,891,551 ("the '551 patent"); and 6,957,233 ("the '233 patent"). The complaint further alleged the existence of a domestic industry. The Commission's notice of investigation named several respondents including: Hon Hai Precision Industry Co., Ltd. and Foxconn Electronics, Inc., both of Tucheng City, Taiwan; Foxconn Precision Component (Shenzhen) Co., Ltd. of Shenzhen, China; and Foxconn International Holdings Ltd. of Kowloon, Hong Kong (collectively, "the Foxconn/Hon Hai respondents"); Barnes & Noble; and Inventec.

On December 15, 2011, the Commission issued notice of its determination not to review the ALJ's ID granting Microsoft's motion to terminate the investigation as to the Foxconn/Hon Hai respondents based upon withdrawal of all allegations as to these respondents. On February 14, 2012, the Commission issued notice of its determination not to review the ALJ's ID granting Microsoft's motion to terminate the investigation as to claims 1-6, 9-14, 17-26, and 29-42 of the '780 patent (terminating this patent from the investigation); claims 7, 9, and 11 of the '551 patent; claim 21 of the '233 patent; claims 1 and 2 of the '522 patent; and claim 1 of the '372

patent, based on withdrawal of these asserted claims. Also, on March 2 and 7, 2012, respectively, the Commission issued notice of its determinations not to review the ALJ's IDs granting Microsoft's motion for summary determination as to Barnes & Noble's patent misuse defense, and for summary determination as to the economic prong of the domestic industry requirement.

On May 1, 2012, Microsoft moved to terminate the investigation as to Inventec based upon withdrawal of all allegations as to this respondent. Separately, Microsoft and Barnes & Noble jointly moved to terminate the investigation as to the remaining respondents Barnes & Noble based on a settlement agreement. The Commission investigative attorney filed responses in support of each motion.

On May 11, 2012, the ALJ issued an ID granting Microsoft's motion for termination of the investigation as to Inventec and a separate ID granting the joint motion for termination of the remaining respondents Barnes & Noble based on a settlement agreement. He found that both motions satisfied Commission rule 210.21 and that the joint motion for termination based on a settlement agreement was not contrary to the public interest in accordance with Commission rule 210.50(b)(2). No party petitioned for review of the IDs. The Commission has determined not to review the IDs, and has terminated the investigation.

The authority for the Commission's determination is contained in section 337 of the Tariff Act of 1930, as amended, 19 U.S.C. § 1337, and in sections 210.21 and 210.42(h) of the Commission's Rules of Practice and Procedure, 19 C.F.R. §§ 210.21, 210.42(h).

By order of the Commission.

Lisa R. Barton  
Acting Secretary to the Commission

Issued: May 29, 2012

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